THREE LETTERS

ADDRESSED TO THE

PUBLIC,

ON

THE FOLLOWING SUBJECTS:

I. The Nature of a fœderal Union.—The Powers veſted in Congreſs, and therein of Sovereingty.

II. The civil and military Powers.—The Diſpute between General Greene and Governor Gerard, reſpecting Flags of Truce.

III. The public Debt.—The Act of Confederation defective—a remedy ſuggeſted.—The Five per Cent. Impoſt Act conſidered and recommended.

Ponderibus librata ſuis. HOR.

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ODES
OF
HORACE
TRANSLATED INTO
ENGLISH
VERSE

PREFACE.

THE ſubjects of the following letters were ſuggeſted by a publication in Charles-Town, where they were ſucceſſively to have been publiſhed in the news-papers: But the author, reflecting that they were not local, and that his arguments muſt, like the United States, be weakened by diviſion, concluded to reſerve them for a ſmall pamphlet, where they retain their original form, and are with deference ſubmitted to the opinion of the public.

Since the laſt of theſe letters were finiſhed, the pamphlet containing an Addreſs and ſome explanations from Congreſs to the different States, has appeared in Charles-Town, containing very forcible reaſoning, and much uſeful information on the national debt, and the means of diſcharging or funding it.

PREFACE.

THE Subject of the following Letters were suggested by a Publication in Charles-Town, before they were perceived to have been published in the Newspapers: But the author, declaring that they were not local, and that his arguments small, till the States, do vocated by diverse, co[illegible] a small pamphlet, [illegible] Grand Form, and rife with deference submitted to the opinion of the Public.

BRITISH MUSEUM

Since the first of these Letters were finished, the pamphlet containing an address and some explanations from Congress to the different States, was ordered in Charles-Town, containing very favorable resolutions, and much useful information on the national debt, and the means of discharging or funding it.

LETTER I.

I HAVE ſeen a copy of a letter addreſſed by Major General Greene to the Governor, and by him laid before the legiſlature of this ſtate, while that aſſembly were debating upon an intereſting queſtion, and ſome ſtrictures ſince publiſhed, by a writer under the ſignature of Hampden on that, and another letter, written by the General to the Governor, and by him alſo tranſmitted to the Aſſembly, on the ſubject of impreſſments.

I DO not mean to enter into any diſcuſſions with the author of the ſtrictures above-mentioned, concerning the propriety of the General's firſt letter, much leſs to purſue him thro' the little meanders of his genius on the ſecond—my object is more extenſive. I propoſe to examine the principles, upon which the reaſoning in thoſe letters is founded.—This will naturally lead to an enquiry into the nature and conſtitution of Congreſs—the objects of a fœderal union—and the operation of the powers of Congreſs upon the fiſcal policy of the ſtates.

IT has been ſaid theſe ſubjects were of a nature too delicate to admit of a public and liberal inveſtigation. I differ from this opinion, and deem it unworthy the dignity of a free and ſenſible people, to adopt meaſures upon any principles, that will not bear the teſt of a cool and diſpaſſionate examination. In the infancy of a political eſtabliſhment, it is eſſential that all arrangements ſhould be founded upon juſt principles, and after much deliberation. We *may* reaſon wrong upon right principles; but we *muſt* for ever do ſo upon wrong ones; for how can the ſtream flow pure, when the ſource of truth is polluted?

The general reaſoning in the firſt letter alluded to, is founded upon this principle, that power in the hands of a body, who, by inevitable neceſſity, muſt be changing from private to public, and from

from public to private life, in perpetual ſucceſſion, cannot poſſibly be abuſed. Congreſs is this body, and I ſay its members muſt *by invitable neceſſity* be continually changing, becauſe frequent elections to Congreſs are adopted by all the States, and, as they ought, ſo it is probable they will, guard this right with a vigilant and jealous attention. — So long as they preſerve, and exert it as they do at preſent, by frequent, periodical elections—by rendering the ſame members inelegible after a ſtated time of ſervice—and by the exerciſe of a limited, juridical ſovereignty, guided by the idea of a general, inſeparable, continental intereſt, I affirm that Congreſs will not——that they cannot employ the revenues of the continent to deſtroy the independence of the component parts of the union, in caſes where they ought to be independent. If the members of Congreſs adopt meaſures injurious to their particular ſtate, are they exempted themſelves from the general misfortune? Are they ſuperior to the laws of the ſtate, becauſe they are members of Congreſs? A perpetual revenue under the direction of Congreſs, if they were a perpetual corporate body, with a right of filling up their own vacancies, might indeed, according to a common-place figure, be "a dangerous weapon" in their hands; but ſo long as the appointments of the Delegates are temporary, a revenue, even a perpetual one, can never be dangerous to public liberty,—and it would be the ſame, were the members perpetual, and the revenue temporary. Either of theſe reſtraints, on a body, limited in ſo many other reſpects, are, and ever will be a ſufficient check upon their proceedings, even ſuppoſing they could be influenced by that foil of the nobleſt virtues, the deſire of unlimited power.

THIS is not all—the members of Congreſs are not only ſubject to the ſame evils they may bring upon others, but they are moreover anſwerable to their conſtituents, perſonally, for the execution of the truſt delegated to them, for an abuſe of which, the infamy of a public puniſhment might, and probably would be ſuperadded to their ſhare in the general misfortunes. The power of impeachment in the Houſe of Commons of England, is a very great reſtraint upon the miniſters of the King, whoſe executive, political prerogatives, bear a very ſtriking reſemblance to the powers of Congreſs. His ſubjects have juſtly ſet bounds

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to the power of an hereditary crown, by many reſtrictions. Is there any cauſe why we ſhould be equally diſtruſtful of a body whoſe individual exiſtence depends upon our own ſufferage? I confeſs I ſee none.——

THE United States collectively are but one power, § bound and united together by their repreſentatives in Congreſs, who are elected upon the ſame principles, and more ſubject to reſponſibility, than the members of the legiſlative aſſemblies. Their fortunes are embarked in the general cauſe—their intereſt is at ſtake, ſo that they are, and muſt continue virtuous ſo long as ſelf-intereſt ſhall influence the conduct of men. For the intereſt of Congreſs, and that of the States are the ſame in nature, and theory, and will forever prove ſo in effect.——The preſervation of the pilot depends upon his own art, nor can he wreck the ſtate veſſel, thro' ignorance or deſign, without ſuffering in the general calamity; and where is the danger of truſting him with a neceſſary power, thus intimately connected with his own ſafety.

I WILL freely avow my ſentiments—I think it would be better to inveſt Congreſs with more extenſive authority. They are intruſted with the command of the army, for the protection of all the ſtates, but how can they extend it to thoſe who are remote from the ſcene of action, when they have not money in their treaſury ſufficient to pay an expreſs rider, tho' he were to carry orders, or information neceſſary for the ſalvation of a ſtate. Congreſs have been unable to extend protection in every inſtance where it was neceſſary; but to complain of them on that account, would be not leſs abſurd and unjuſt, than after having bound the hands of your friend, to complain that he did not defend you againſt your enemies.

THE object of a political fœderal union is the ſafety of the ſtates who compoſe it—by which the reſources of many ſtates are collected into one maſs, to be employed for the advantage of all and every part. The ſafety of individuals is the foundation of civil ſocieties; and in like manner the ſafety of ſocieties is the foundation of political confederations.——Individuals in a ſtate of nature, uniting with each other in one ſingle ſociety, that the

§ See the note in page 2.

efforts

efforts of all may be exerted for the mutual ſafety of each; in the ſame manner that each ſtate is united with its neighbour, for the ſame purpoſe. Theſe ideas operating upon our minds, whoſe peculiar ſituation along the banks of an immenſe ocean, by which we are in a great meaſure ſeparated from the reſt of the world, has pointed out the propriety, and neceſſity of a general intereſt, and a repreſentative body, into whoſe hands, and according to whoſe wiſdom, the reſources and efforts of the whole may be beſt employed, for the protection and ſafety of every part. In this body then muſt reſide the ſovereignty of the United States; the deputies of each ſtate collectively, forming the moral repreſentative and ſovereign power of the whole. But as it is unneceſſary—would certainly be inconvenient—and might be dangerous to inveſt this body with legiſlative, as well as political, executive authority; there may alſo be a ſeparate, inferior, limited, juridical ſovereignty ſtill reſiding in each State, in its relative capacity. —— That this is a juſt diſtinction, and that each of the States, if indeed it can properly be denominated a *Sovereignty*, has only a limited, territorial one, is clear beyond a doubt in my mind, becauſe in Congreſs alone reſides the power of making war and peace, and treating in a ſovereign capacity with other nations. *(a)*——Under theſe reſtrictions each of the States may be ſovereign, ſince it is a favourite and flattering idea, ſo far as is neceſſary for the purpoſe of regulating municipal laws, and adopt-

(a) The authority of Vattel, a late elegant writer, on the law of nations, has been cited to prove that the ſovereignty of the United States reſides, not in Congreſs collectively, but the States individually.——His arguments prove directly the reverſe. He ſays, a Sovereign State is a moral perſon, capable of rights, and obligations which are transfered to, and reſide in the Sovereign, Conductor, Prince, Superior, &c. L. 1. § 40. Now it appears to me abſurd, that there ſhould be thirteen ſtates—each a ſovereign power——a moral perſon——capable of rights and obligation, and which, as a neceſſary conſequence, has a right immediately to *figure* (for that is his expreſſion) in the univerſal ſociety of nations, when they cannot even *confer* with any King, Prince, or State. Such a mute figure would be but a very ſilly one.——When we conſider the United States, as they are in fact, one individual nation, whoſe moral perſonality reſides in Congreſs, every thing clears up, and Vattel's remarks are juſt and applicable.

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ing plans of domeſtic policy within their limits; but it is for the intereſt of all the ſtates, that Congreſs ſhould have powers adequate to the great objects of the union — that they ſhould be accurately defined——and then remain ſacred and inviolable; and in defining them, there is leſs danger of conceding too much, than too little. ——

If this diſtinction is juſt, there are two diſtinct ſovereignties in the United States —— That which is for the purpoſe of public ſafety, and that which is calculated more peculiarly to promote private happineſs. —— One repreſents the wiſdom and power of the United States with foreign nations, the other preſerves and repreſents the diſtinct rights of each particular State in its relative ſituation with reſpect to Congreſs and the others: And both theſe ſovereignties reſide in bodies whoſe members are ſo frequently elected, and ſubject to ſo many reſtraints, that the ſeparate intereſt of each muſt forever be inſeparably interwoven and connected with that of the public.——The intereſt of the State, in each legiſlature, is the intereſt of each individual in that aſſembly; and ſo, that of the United States in Congreſs, is the ſame of each individual State. Theſe bodies are founded upon ſimilar political principles,—to wit, a general intereſt and the neceſſity of ſome body to preſerve it;—which body is formed in both upon the acknowledged doctrines of election and repreſentation.

The two primary objects of civil government, are public ſafety, and private happineſs.——There is a peculiar felicity in the frame of the American government for the attainment of theſe, by which the powers neceſſary for each, ſo happily ſeparable in their nature, are depoſited in diſtinct bodies, no way influenced by each other. The conduct of war, treaties, politics, and the neceſſary revenue, becauſe they relate more particularly to the ſafety of the nation, are the proper buſineſs of Congreſs. —— Laws, police, order, juſtice, the cultivation and improvement of the ſocial virtues, which promote private happineſs——theſe are the proper objects of the legiſlative aſſemblies in the States: And in order to give efficacy to the meaſures adopted for theſe purpoſes, there is the ſanction of ſovereign power reſiding in each.—That which reſides in Congreſs agreeing with the uſual enlarged idea of a ſovereign power; that in each of the States, limited

and reſtrained to leſs ſplendid, tho' not leſs neceſſary objects. Thus the line between Congreſs and the States appears to me ſo plainly, and ſo naturally marked out, by the obvious purpoſes of a confederation, that it can ſcarcely be miſtaken, except by deſign; and I can ſee no one motive, not even of ſelf-intereſt, or ambition that can afford the proſpect of advantage to ſuch a deſign.

Perhaps weak and apprehenſive minds, whoſe timid nature magnifies every poſſible danger, into a probable one, and diminiſhes every probable proſpect of good, may not agree in this liberal doctrine. It will not be the firſt inſtance, wherein the apprehenſion of problematical misfortues, has embittered the enjoyment of real pleaſures; like that of want, which keeps the rich miſer in perpetual indigence. Neither may it ſuit thoſe ſanguine tempers, whoſe minds are perpetually in ſearch of new principles and new modes.—Theſe ardent imaginations have marked out ſome beautiful forms of government, but unfortunately they are too refined for common uſe, and can only be conſidered as ingenius ſpeculation; unleſs indeed they had the art, not only of making wiſe governments, but that of changing human nature ſo as to adapt it to them.——One would imagine the principles and advantages of repreſentation had been perfectly familar to the minds of thoſe educated under the influence of Engliſh habits and an Engliſh government; but it ſeems to have been forgotten that government is, and ever muſt be a truſt, againſt an abuſe of which, no human foreſight can entirely provide; and therefore it is agreed among logicians, in the quaintneſs of their dialect, to be uncandid to argue "from the *uſe* to the *abuſe*" of power; becauſe the advantages derived from civil government, infinitely overbalance the evils, that might by poſſibility reſult from an abuſe of its powers.

Congress in fact have never acted by any political authority, but only by the gentler method of recommendation and influence. I wonder that ſome whoſe penetration in other inſtances has extended ſo far into the infinite mazes of true and falſe policy, has not in this, found out the dangerous, becauſe inſenſible, conſequences of "*the mild voice of influence.*" It may be ſaid that Congreſs could not exert authoritative powers, till after the completion

tion of the confederation; yet to me it appears plain that the weight, the influence, and of course the efficient powers of that body, have been declining, in proportion as the governments of the several states have acquired vigor and maturity. Their suspicions have operated like a secret poison, that, tainting the vital principle, brings languor and dejection upon every limb, till the constitution itself may be overturned and destroyed.

I HAVE endeavoured to avoid long deductions, and historical illustrations in the above strictures. Trusting to simple principles and plain reasoning, on a subject so delicate, so interesting, and so novel, I hope to meet with candor in the public opinion. If I have suggested hints, or even only proposed a subject, that may excite the curiosity, and affect the interests of those who have more leisure, more knowledge, and equal zeal to induce them to investigate it, my object will be answered.——With respect to that species of general reasoning in politics, founded upon the history of other countries, other actors, and in different times, it has but little weight in my estimation. In the municipal laws of a state, precedents should be strictly attended to, where they do not most plainly contradict the common experience of every man; because the advantage of permanent rules of right, in the various designations and distributions of private property, is of infinitely more consequence to society than the injustice, sometimes real, though often imaginary, which may happen to a few individuals. But it is otherwise in the science of Government, because there is no advantage to be derived to one country from its conformity in practice to another, any farther than as its measures are founded in true and just notions of liberty *; besides, that no two countries are, or can be in similar circumstances, and possess an entire similarity of manners, without which precedents cannot be, with propriety, applied. It is for these reasons that I have declined every species of argument, not drawn from acknowledged maxims of liberty, or not deducible from our peculiar situation and scheme of government.

* THE municipal laws of one society have no connexions with, nor influence upon the fundamental polity of another."

Black. Com. Vol. I. 192.

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THE origin and hiſtory of impreſſments, deduced from neceſſity which can alone juſtify them, having been ingeniouſly ſtated to the public by a perſon under the ſignature of "A Patriot Soldier," and who ſeems to be well informed, I ſhall take no farther notice of Mr. Hampden's publication. I would not wiſh to diſturb the aſhes of the dead.

TULLIUS.

LETTER II.

I CONCEIVE the following reflections will not be conſidered ſuperfluous, becauſe the happy termination of the war has made it probable the circumſtance which immediately occaſioned them, will not ſhortly happen again. Wiſe men, indeed, reflecting upon the active and ever reſtleſs nature of the human mind have entertained apprehenſions of fatal diſcords among the United States. The beſt way to counteract this ſpirit, will be to examine into the nature and effects of our government, with freedom and moderation, wherein neither prejudices on one ſide, nor enthuſiaſm on the other, ſhall be permitted to miſlead the mind. When we ſee and experience the advantages of commerce, agriculture, arts, and manners, we ſhall, doubtleſs, prefer them to a ſtate of violence and contention. I am not much alarmed when political pedants foretell the ruin of the American Republics, becauſe thoſe of Greece and Rome have periſhed. The moderns excel the ancients in the ſcience of government, and true philoſophy. We have proved the former by the wiſdom of our political conſtitution, and I truſt we ſhall evince the latter by the exerciſe of every talent, and the practice of every virtue, that can illuſtrate and give it efficacy.

IN my laſt letter I endeavoured to trace an outline of the American government, a form which has no parallel in hiſtory, by which, if I may ſo expreſs it, the political and juridical ſovereignties are ſeparated and rendered independent of each other. I had

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no proſpect then that an inſtance would ſo ſoon occur, to illuſtrate the truth of thoſe remarks. I recommended the propriety of an inveſtigation of this ſubject, and why it ſhould have remained ſo long in obſcurity, when it appears ſo vaſtly intereſting, is to me matter of aſtoniſhment and regret.

To the want of accurate ideas, and a clear comprehenſion of the nature of the connexion between Congreſs and each ſtate, by which they are united in their intereſts, and diſtinct in their powers, muſt be imputed a controverſy, which the executive magiſtrate of this ſtate has had with the commanding general, concerning the right of ſending and receiving flags; for I will not ſuppoſe that either a natural perverſeneſs of diſpoſition, or deſire to arrogate unconſtitutional and unneceſſary powers were the motives of either: But without enquiring what may have been the ſecret, and probable origin of the diſpute, I ſhall take the liberty to examine it.

Civil government, which is the conſequence of ſociety, being the ſource of military authority, muſt be ſuperior to it; but however juſt this maxim may be in itſelf, and however neceſſary to be kept in view, under a different political eſtabliſhment, we ſhall ſeldom have occaſion to examine and apply it, in our preſent form. *The perfect ſubordination of the military to the civil power* is one of thoſe maxims, many of which we have adopted from Britiſh writers, when the reaſons that occaſioned them have ſubſided, or are inapplicable to our ſituation.†

Let us examine this——

The States have veſted in Congreſs the ſole and excluſive right of raiſing, equiping, new-modeling, and commanding the army, but not any of the legiſlative powers of civil government; theſe

† We cannot conceive the idea of a diſpute between the legal, civil, and military powers of America; becauſe Congreſs, having the command of the army, and being veſted with the only civil power ſuperior to it, muſt, in ſuch caſe, be ſuppoſed to differ with itſelf, which is an abſurdity. I ſuſpect that, frequently, nothing more is meant by this ſentiment, than that military officers are amenable to a civil tribunal, for civil injuries.

these remain in the States, entire, distinct, and forever separated from the political powers of Congress. This separation, the objects of which was explained in my last letter §, is the most singular, the most striking, and the most beautiful feature in our constitution ‡, by which, when rightly understood, all possible competition will be prevented between the army and any state; or if any should arise, it can never be productive of danger. The authority of military officers is derived immediately from Congress, to whose controul the States have also expressly subjected themselves in all matters of war. All disputes must then of course be refered to that body, to whose final decision all parties are bound to yield implicit obedience. Military men, as such, have no rights but what are vested in them by Congress, who in like manner, has no authority but what is vested in it by the States; part of which is the exclusive direction of the military force: Individual States therefore can have no shadow of right to interfere in any thing relative to it; and in any meafures or points in dispute between a civil magistrate and a military officer, the decision must turn entirely upon this question—Is it relative or necessary in the conduct of war? If they should differ in this, which can seldom happen but from the misapplication or perversion of the most obvious and simple principles, the natural appeal is to the decision of Congress, not force and violence. Letters and remonstrances are inoffensive, and embroil only the disputants; by these the supposed rights of either may be asserted and enforced; but he who should excite or promote a groundless jealousy, between the people and the army, by using violence, or dare to give the first blow in any cause, however just, should suffer those punishments, which from their peculiar severity, are reserved only for the vilest criminals.

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§ Pages 8 and 9.

‡ "Les loix qui sont faites directement en vue du bien public, "sont des loix politiques. Les loix civilles sont celles qui reglent "les droits, et la conduite des particulier entr' eux. Vattel L. 1. "§ 29.—This distinction of laws into political and civil, is applicable to Congress and the States, in the same manner that it is to each State and its citizens.

In this point of view it appears in fact that neither the civil nor military, in the common acceptation of this phraſe, is ſuperior, becauſe there is a tribunal to which all ſubordinate powers muſt appeal, and whoſe deciſion is concluſive and compulſory. Thus from the conſtitution of our government, we are ſo wiſely ſituated, that there is no neceſſity for ſuperiority, and of courſe contention between two powers, or rather orders of men, which in governments leſs perfect, and times leſs enlightened, have mutually endeavoured to ſuppreſs or invade the rights of each other, and not unfrequently endangered the exiſtence of the State.

But while upon calm reflection we find this maxim, however true in itſelf, inapplicable to our political arrangements, it is apt to perplex and miſlead the minds of thoſe who have not attentively conſidered the ſubject. The maxim itſelf is in a very great degree indefinite, and affords no determinate idea which we may readily apply to particular inſtances; and this want of ſufficient preciſion, as to the objects to which it may extend, is frequently the ſource of error and contention. For example; it has been conteſted, whether any perſon but the ſupreme executive magiſtrate can grant permiſſion, or prohibit any perſon from entering into the limits of the ſtate under a flag of truce; and on the other hand, it is doubted whether the commanding General cannot ſend, or receive them without, or even contrary to his opinion and orders. Here a diſpute ariſes which no poſſible application of this maxim can determine, but we are left to inveſtigate it by other principles, and from other reaſoning.

Let us ſee what they are——

Flags of truce, from the very name, point out two circumſtances—The *truce* imports a ſuſpenſion of hoſtilities, and the word *flag* the manner in which it is attained.—A truce, ſimply, means a temporary peace, or ſuſpenſion of hoſtilities for ſome conſiderable period by treaty; but a flag of truce extends only ſo far as the flag may be ſeen, and ſo long only as it is diſplayed, for the purpoſe of tranſacting any buſineſs that may ariſe between the two armies, with ſafety and convenience. Flags of truce ſeem originally invented by humanity, to ſtop the fury of an actual aſſault, or combat, and for the pious purpoſe of burying the dead

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after battle; in which laſt caſe the moſt barbarous people have uſed it: but now, by tacit conſent, they are authoriſed between armies oppoſed to each other, for almoſt every purpoſe, and are conſidered as a ſafeguard only for the agents, but never as the mode of tranſacting buſineſs between civil ſtates. They cannot be referred to the ſcience of the law of nations, being local and confined entirely to the buſineſs of war, and therefore can only be properly cognizable, and incident to a military character.

EVERY ſpecies of truce, therefore, as being neceſſary in war, falls under the direction of Congreſs, and thoſe to whom they delegate it; ſo that the chief magiſtrate of this ſtate could not claim a right to receive the flag borne by a Captain Ker, from St. Auguſtine—ſtill leſs when the commanding officer had already received it—and leaſt of all to direct his officers by a ſpecies of violence to wreſt it from him, and confine the perſons.

FLAGS of truce being the means of negociating buſineſs between two armies, it would be highly *improper* to truſt the power of ſending and receiving them *to any other perſon* than the commanding officer. He is reſponſible for the ſafety of his troops, and the ſucceſs of his enterprizes; would it not then be unjuſt and impolitic to entruſt any other perſon with a power that might, even unvoluntarily, endanger one, or defeat the other. The ſucceſs of war depends much upon ſecrecy. The General alone knows the intended movements of his army; he then muſt be the only, and moſt proper perſon, to regulate a mode of intercourſe, which may, and ſo frequently is perverted to the purpoſes of gaining intelligence.

A DISTINCTION has been made between flags, as being of a public and private nature; founded on an idea by which the buſineſs of the flag, is miſtaken for the flag itſelf; tho', were it juſt, the commanding officer ſhould certainly poſſeſs a mode of intercourſe that might be ſo much more dangerous, from its being private: but the diſtinction is without foundation. The buſineſs of a flag may be private—the buſineſs of an individual, in contradiction to public—the buſiaeſs of the army, but it ſhould never be ſecret: And the flag, paſſport, or powers, by which it is permitted to be tranſacted, is always a public, official act.

It is by theſe principles that Congreſs have been guided in forming the pact of confederation, which they have alſo explained in a ſubſequent reſolution, with reſpect to the point in diſpute. By the former, the ſtates are not only precluded from ſending and receiving embaſſies, making foreign or domeſtic alliances; entering into treaties, raiſing fleets and armies, or engaging in war, but alſo from "entering into any *Conference* or agreement with "any King, Prince or State; and of courſe their commiſſioners or Ambaſſadors. The executive powers of the different States, not having power to confer, or agree with any perſons under the ſanction of flags, which it is certainly agreeable to the uſage of war to ſend, Congreſs and their officers alone can have it. It is a part of the *jura ſummi imperii* of ſovereign power, and which no particular ſtate can exerciſe. Accordingly we find this to be the ſenſe of Congreſs, declared, upon the application of a lady to go into New-York, by an act of the 21ſt of Auguſt, 1781. When it was "Reſolved, that when any perſons are deſirous of "going into the enemy's lines, they ſhall apply to the executive "powers of the ſtate to which they belong; and if the ſaid exe-"cutive powers approve the characters, and motives of the per-"ſons applying, and ſhall be of opinion, *eſpecially at ſo critical* "*conjunctures* as the preſent, that no danger will enſue by grant-"ing ſuch permiſſion, that they recommend them to the officer "commanding the troops next to the enemy, who, upon ſuch "recommendation, may, *at his diſcretion* permit the perſons to "go in."

It is upon the ſoundeſt maxims of policy, and with the moſt cautious deſign, the act of confederation has precluded any, and every ſtate from all political intercourſe with other nations, with whom, politically they have no power, even to converſe.—— That compact ties the United States together in a bond, which I hope will be ever ſacred and indiſſoluble.—This union has made a treaſure committed to the guardianſhip of Congreſs, who alone can preſerve it has made us independent, and muſt now make us great: It is the only ſolid ſoundation of ſafety and of glory. The very idea of an American citizen, has a charm that dignifies the human character, and lifts the ſoul to greatneſs; who would exchange it for the narrow appellation of Georgian, Virginian, Jerſian, and the like? If ſuch a perſon can be found, I pity and deſpiſe his weakneſs.

WHILE I have endeavoured to illuſtrate a point which appeared of importance, as it affords new lights into the admirable texture of our conſtitution, it will give me pain if I have been juſtly liable to the imputation of want of reſpect, and politeneſs to public characters, which it has been my ſtudy, and will ever be my pride to preſerve.

TULLIUS.

LETTER THIRD.

TO attract the public attention to an intereſting ſubject was the deſign of theſe letters. If my ſentiments merit approbation I ſhall be happy, but ſhould they be controverted, and even refuted, I can have no cauſe of regret. Truth alone can diſcover falſhood, and the acquiſition which I hoped might be fame, will be fortunately changed to inſtruction——I hope, therefore, the preſumption of thus obtruding my opinions upon the public, will be conſidered as a pardonable tranſgreſſion, even tho' they have no extrinſic ſupport, nor other foundation, than thoſe maxims, and that reaſoning which has convinced my own mind. The operations of the underſtanding are ſlow and progreſſive. It ſeldom comprehends the whole of a complex ſyſtem at once, but experience and obſervation will, by degrees, unfold the connexion or diſagreement of its parts, and the diſcordance or harmony that reſults from them. The mental, like the natural eye diſcovers, upon cloſe examination, many beauties and defects, that were before too remote for the keeneſt penetration. I aſk for candor but not indulgence——that my obſervations may not be condemned, till they have been examined, nor haſtily rejected, becauſe they are novel.

IN my former letters I ſtated the advantages of giving adequate powers to Congreſs, without ſpecifying the nature of thoſe powers. In this, I propoſe to examine the effect of their powers with reſpect to their revenue, a want of which has evidently occaſioned the debility of that body. But before I proceed, it will be neceſſary to look back to the condition of America at the commencement of the war, by which ſhe was compelled to contract a large national debt.

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It was a maxim in British politics, that the cultivation of useful arts, and manufactures, should be suppressed in her colonies; and that they should be supplied with every thing, from Great-Britain, to whom their commerce was confined. Thus, they first created our wants, and then claimed all the merit of maternal tenderness in relieving them. According to their casuistry, it was kind to make us miserable, and then it was certainly kindness to relieve us. ——By this line of conduct, they wished to create a two-fold obligation to bind us to them;—first by our wants, which they would suffer none but themselves to have the merit of relieving; and secondly those affections, which such parental kindness was calculated to inspire. The artifice succeeded. We received from her the conveniencies, and elegant luxuries of life, at an extravagant price, and, like a young spendthrift, caressed the usurer that would have ruined us, while he supplied our pleasures. In these circumstances the measures thought necessary at that time, stopping the intercourse between the two countries, destroyed the only channel, thro' which our wants had been so long supplied, and left us destitute of every thing necessary for war but an unconquerable spirit. We found armies, in whom this spirit supplied many deficiencies, but nothing could supply the want of arms, ammunition and cloathing, and these therefore were to be purchased from strangers. But how? We were without money, and the enemy were masters of the sea. The former was remedied by public credit, and the latter by the enterprize of our people. The soil of the United States being mortgaged for the payment of the debt to be incurred, procured every necessary, and at the end of the war we find ourselves bound for upwards of forty millions of dollars.—If we look back upon the progress of this war, and the means by which it is so happily, so gloriously, and I may add, fortunately terminated, we shall find our independence to be owing to the unparalleled virtue and exertions of those very men to whom the principal part of this debt is due. The sufferings of the army have been much talked of and admired; but another, the last, and greater than all the former, may still be added. ——It is the bitterness of misfortunes, insulted by pity and ingratitude. There is something peculiarly refined in the malignity of ingratitude, by which the soul is wounded, and disarmed at the same time. ——It gives pain and destroys the fortitude necessary to sustain it. The mighty spirit

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Cæſar died, not by the daggers of the conſpirators, but at the ſight of the ungrateful Brutus.—This debt, thus contracted and due to virtue in diſtreſs, the United States are bound to pay by every motive that can influence a juſt or liberal mind, excluſive of their own poſitive engagements; but the difficulty is, how, and by whom ſhall it be done? It is much eaſier to ſay what ought, than what will be a true anſwer to this queſtion. The act of confederation has declared that all public expences ſhall be defrayed from a general fund, the manner of forming which, is marked out; but unhappily it has given Congreſs no coerſive powers to compel refractory, or delinquent States to comply with their legal requiſitions. This eſſential defect has rendered the wiſeſt meaſures of Congreſs abortive, and fettered all their proceedings. States, like individuals, in purſuit of wealth, and free from reſtraint, will pay little regard to the dictates of public juſtice, and national honor—or to that diſtreſs, which they will pretend exiſts no where but in the news-papers. Their political penetration will diſcover, that *a national debt is a national bond*; or perhaps they may go farther, and think it the eaſieſt and pleaſanteſt way, to forget both the debt and the creditor: nor will plauſible arguments be wanting to juſtify them. Who would rob virtue of the glory of its ſufferings? * And who ſo capable of ſuffering with dignity; as thoſe to whom misfortunes are familiarized by habit? The States may indeed confeſs, in ſpeculation, that they are bound to pay the neceſſary expences of the public; but they will moſt probably neglect it, doubly induced by certain profit and certain impunity.

THE neceſſity of ſome conſtitutional coerſive powers, to oblige the ſtates to contribute their proportions of the public expences, will ſtrike us more ſenſibly, if we review the repeated, and preſſings requiſitions of Congreſs, and the occaſions, and delays of

* SENECA, who poſſeſſed an immenſe fortune, while he declaimed againſt luxury and intemperance, obſerved, that a virtuous man ſtruggling with misfortunes, was a ſight which the gods might look upon with pleaſure. I fear the religion of this ſentiment will be adopted, and then it would certainly be ſacrilegious to deprive the Supreme Being of ſuch an amiable ſpectacle as the American army affords. I am warranted in this apprehenſion by the unregarded indigence, and literary merit of Mr. Paine, whom the States ſhould reward as well for their own honour, as his ſervices.

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the States. I ſhall go no farther back than 1781, the eſtimates for which were made, and communicated to the reſpective ſtates in November 1780; and in January following, in a circular letter, Congreſs complain that neither their requiſitions prior to the 18th of March, nor their ſpecial warrants for the balances, though drawn in July, had been attended to.—That it became neceſſary to diſcontinue the emiſſion of paper money, and that the expedient of loans was unproductive. That from theſe cauſes, their meaſures to obtain adequate funds for the pay of the army, had been defeated, in which there was both danger, and injuſtice; to obviate which, they made a partial requiſition to Pennſylvania and the Eaſtern States for 879,342 dollars, being ſix months pay for their troops, and which was to be paid immediately into the hands of the paymaſter general. In March they made another demand upon the ſtates northward of North-Carolina incluſive, for 6,000,000 of dollars, to be paid in quarterly payments; and in May it was Reſolved, that any farther delay in complying with the requiſitions of Auguſt, which money was to have been received in December 1780, *muſt prove ruinous*; and that the ſtates muſt take effectual meaſures for the payment of their quotes of the requiſitions of November and March, punctually as they became due. It is unneceſſary to multiply references to the preſſing, repeated, but unregarded remonſtrances of Congreſs on this ſubject. Thoſe, which were made at a time when the diſmemberment of the Southern States was ſeriouſly apprehended, are ſufficient to ſhew the inefficacy of thoſe meaſures, which have nothing but noble ſentiments, or the charms of eloquence to enforce them.

To remove the cauſe of theſe evils, I would ſuggeſt an additional paragraph at the end of the eighth article of the act of confederation and perpetual union, by which, "if any ſtate ſhall fail to pay the quota aſſigned, at the time required by the United States in Congreſs aſſembled, ſuch ſtate ſhall pay at the rate of 10 per centum per annum, upon ſuch deficiency till it be made good: But if the ſame, with the intereſt, or any part of either, ſhall remain due, at the end of ſix months after it ſhould have been paid, ſuch delinquent ſtate ſhall moreover be interdicted, and abſolutely precluded, from all commerce with other ſtates, or foreign parts; and the United States in Congreſs aſſembled ſhall have authority to ſeize all veſſels, cargoes, or other property of the inhabitants of ſuch ſtate, attempted to be tranſported out of the

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ſame, by land or water, for the purpoſes of trade, and to ſell the ſame for the uſe and benefit of the United States in Congreſs aſſembled. And that ſuch interdict ſhall be made by a public inſtrument, executed in Congreſs, to continue till the deficiency, principal, and intereſt, be made good, and no longer." This, or ſome ſimilar article, by engaging the ſelfiſh paſſions on the ſide of virtue, would make it the intereſt, as well as the duty of the ſtates to ſupply the public wants. The intereſts of each ſtate, and of the United States, would mutually ſupport, and be ſupported by each other. It would ſtrengthen that bond, which can alone bind together the views and intereſts of this vaſt continent; and give vigour and promptitude to their meaſures. Without it, I ſee no probable proſpect that the public debt will be ſpeedily, if at all, diſcharged; for what reliance can we place upon public faith pledged in Congreſs, when the ſtates only can ſecure it from violation?

BUT the neceſſity of farther expences has not ceaſed with the war; ſo that we ſhall have other debts alſo to provide for. The United States placed along the banks of the ocean, are compelled by nature to become a maritime people. We can grow great only by commerce, and we muſt therefore incur the expence of building and maintaining a navy to ſecure it. Or ſhall we truſt our ſecurity to the faith of treaties, and commit ourſelves to the mercy of our former enemies? In the latter alternative our weakneſs and our wealth would be irreſiſtable motives to tempt an invader, and in the extremity of our diſtreſs, we ſhould be ridiculed and deſpiſed by all the world. Some compulſive power therefore is neceſſary to do juſtice for what is paſt, and provide for future unavoidable contingencies; and I can think of none ſo proper as that of impoſing reſtraints upon commerce, which all men purſue with ſo much avidity. The mode propoſed allows ſix months for deficiencies which may ariſe from unavoidable accidents; during which an equitable compenſation ſhould be made by intereſt, which ſhould be higher than uſual, to prevent even that delay; but failures for any longer time muſt be ſuppoſed intentional, and ought to be guarded againſt by the terror of a certain, and ſeverer puniſhment.

I CAN ſee no rational objection to a power which can thus be exerciſed only upon the guilty, nor a mode, which requires reparation

reparation for accidental deficiencies, and punishes only, what must be deemed intentional injustice; nor can I see how the States can oppose it, but from motives which imply a diffidence of their own virtue. The rule only tends to prevent injustice, by the terror of punishment; why then should the virtuous oppose it? Why apprehend a punishment they never can feel, or disapprove those penalties, guilt only can incur? The spirit of this rule is just, and the punishment proportionate to the offence; whereas open force, which is the only appeal at present, is dangerous, disproportionate and ineffectual. It would be among the States as between individuals.——The public mind directed to a certain mode of redress, would not be embarassed, or embittered, between the mortifying alternative of tamely suffering an injury, or endangering the peace of society, by appealing to force to redress it. It is certainly more wise to regulate, than vainly endeavour to extinguish, or prevent the vindictive passions; and it is upon this principle, that a State of society compels all its members to appeal to the laws, instead of personal violence, for a redress of injuries. The principle applies much more forcibly to a number of powerful and haughty republics, forming one great society, whose quarrels would be destructive in proportion to their power.

The States seem to consider whatever power is given to Congress, is their loss; like a miser, who refuses plain necessaries to his son, because he will not support, what he calls, the extravagance of the young dog. I have heard a gentleman lament the weakness of Congress, who, by a fatal impulse of the understanding, opposed every measure that could tend to strengthen it. I differ from him who said, "suspicion was the loveliest trait in political character." Because the virtue of individuals makes the virtue of a nation, and the same unsuspecting integrity, which is greatness of soul in a private gentleman, will be so in the public. Congress are the trustees of an estate for our own use, upon whose conduct, our suspicions are perpetually awake, and who are not unfrequently condemned, like a suspected wife, merely because she might be criminal with impunity. Instead of which, we should reflect that, being removable at pleasure, they can have no motive to abuse the trust, and therefore freely and confidentially give them every power necessary for its full execution.

The neceſſity of adequate ſupplies, and the inefficacy of all former attempts, induced Congreſs to recommend a particular mode of taxation, and produced the Reſolution of February 1781, called the Impoſt Act. I confeſs I cannot conjecture what could have created ſuch an alarm two years after the paſſing that act, by which two States were induced, precipitately, to repeal the laws that had adopted it, and another determined not to adopt it at all. Congreſs having again recommended this meaſure, ‖ I will take the liberty to examine the principal reaſons I have heard objected againſt it.—Firſt, "It will be giving a permanent, and therefore a dangerous revenue into the hands of Congreſs."—But how is this a permanent revenue? In the former reſolution, it was to have been confined to particular, ſpecified purpoſes, and in the latter, it is limited to twenty-five years, and applicable only to debts already contracted. If by a permanent revenue is meant a perpetual one, the objection would have weight, if it was true;—But if, as I ſuſpect, it only means a certain one, inſtead of an objection, it ought to be an inducement to adopt it. 2. "It is no part of the quota of each ſtate."—This objection ariſes from a ſuperficial view of the ſubject. The expences of the Union, we have ſeen, are a debt upon the United States, each of which is bound to contribute its proportionable part. This proportion is not one fixed, unalterable annual ſum, previouſly agreed on, but muſt be more or leſs, from the various cauſes that may increaſe or diminiſh the public wants, and the abilities of the States. If the probable product therefore, of the Impoſt Act, was neceſſary to defray public charges, over and above the ſums before called for in groſs, ſuch product is part of

‖ The peculiar circumſtances of public affairs ſeem to call for the immediate attention of the States. A delay of this, till the ſtated time of the meeting of the Legiſlatures, moſt of which are not till the winter, would produce both injury and injuſtice. Congreſs ought not to be uncertain whether they can rely upon the produce of this tax.—That article of the treaty of peace, which recommends a reviſion and mitigation of the confiſcation laws, calls alſo for immediate diſcuſſion, as it would be cruel and uncandid, to keep the baniſhed, ſuſpended in uncertainty of its effect.—But the moſt powerful conſideration is how far it may be neceſſary for the States expreſsly to corroborate and confirm the promiſes of Congreſs to the public creditors.—The conſequences of this cannot but be obvious to the plaineſt apprehenſions.—I therefore only give a hint, which every man's reflections will purſue.—I preſume not to dictate.—

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their quota, and a debt they are bound to pay, tho' they may reject the mode recommended, and inſtead of a tax upon trade, adopt a tax upon the air, if they ſhould find it more eligible. To illuſtrate this point. Suppoſe Congreſs had found the expences of the year 1781, to have required ſeven million, and had called for ſix in groſs, and recommended raiſing one in a mode, rejected by the States. In this caſe the proportions of the one million ſhould be conſidered as part of the whole quota of each, and collected, tho' in their own mode: elſe a failure of the treaſury for one million would have enſued. No propoſition in Euclid is more demonſtrable. 3. "It will be a precedent to eſtabliſh a right in Congreſs, not only to aſcertain the quota of each State, but alſo to preſcribe the mode of raiſing it."——The precedent will abſolutely deſtroy it. Had Congreſs, inſtead of ſending their recommendation to the different legiſlatures, ſent collectors into the different ports, and thoſe had exerciſed their office without oppoſition, it might then have been a precedent: But the recommending a law, which when it paſſes, and not before, will "veſt Congreſs with a power" is an explicit, unequivocal declaration, diſclaiming ſuch power. To eſtabliſh ſuch a precedent is one political reaſon for adopting the reſolution recommended, the record of which, will remain an everlaſting memorial of the right in queſtion. 4. "The collectors being perſons removeable at the pleaſure of Congreſs, will be ſtrangers, dependants, and not controulable by the States."—The laſt reſolution gives the appointment of collectors, in the firſt inſtance, to the States; retaining the right of appointing, only in caſe of failure, and of removal, for mal-practices. Each State has a right to examine into the public accounts, a ſtate of which is to be laid before them every ſix months: So that while the collectors are amenable to the laws, and their accounts liable to the examination of Congreſs and of the States, who can therefore detect all abuſes. I can ſee no danger that can follow, even if Congreſs had the excluſive appointments. 5. "Congreſs has no right to interfere with any legiſlature in a matter to which its powers are competent." The words *interfering* and *intermeddling* are indefinite terms, frequently uſed on this occaſion. If the objection means that Congreſs ſhall not exerciſe authority to direct or preſcribe laws to a State, where its juriſdiction is *excluſive*, it is true.——But if it means Congreſs has no right to adviſe, recom-

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mend or give their opinions in ſuch caſe, it is certainly groundleſs, both in fact and reaſoning. Their recommendations can indeed pretend to no authoritative influence; becauſe the very idea of advice implies a power to reject it: But they are ſurely reſpectable, as the opinions of men who derive knowledge and experience from their public, and dignity from their private characters. I have heard a gentleman of ſome political influence, ſay he would oppoſe that act, merely becauſe it was recommended by Congreſs: In the ſame ſpirit by which a bravo inſults the weak or the timid; becauſe he is ſure of impunity.

All theſe objections reſolve themſelves into two conſiderations, which deſerve the attention of the States. Firſt, whether, ſince we muſt raiſe a revenue, there are other ſufficient objects of taxation, preferable to trade;—and whether ſuch a mode would be relatively juſt and equal.—I have ever been of opinion (and it is ſtrengthened by the practice of all commercial countries) that an impoſt is the moſt equitable, the moſt eaſy, the moſt certain, and therefore the moſt elegible manner of raiſing a revenue. A moderate tax on the ſoil tends to increaſe the induſtry of the cultivator.—A moderate tax upon trade tends, in like manner to increaſe the enterprize of the merchant. Taxes upon imported, manufactured articles generally fall upon the rich, who can afford to purchaſe luxuries, and it encourages the poor to learn uſeful arts, and ſupply by ingenuity, and induſtry, what they have not money to purchaſe. It would compel idle and diſſolute people to labour, and introduce into all ranks a deſire for gain, which luxury never fails to inſpire, and which is ever proportioned to it. But, ſay the friends of the poor, taxes impoſed upon articles of commerce, fall ultimately upon the conſumer, who pays firſt the original price of the article, then the tax, and then a profit upon both, how will the poor then be able to purchaſe neceſſaries?—This queſtion involves another. Who are the principal conſumers of imported goods?—Not the poor labourer in the interior country, who depends upon his field for food, and his flock for cloathing; but the luxurious citizen, whoſe walls, floors and tables are covered with ſuperb hangings, rich carpets, and expenſive wines. In proportion as the former can afford the expences of the latter, he becomes rich, and can afford to pay the tax.—There is a progreſſive increaſe or decreaſe

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of expence attending every ſtep in the gradation from poverty to affluence, ſo that every man will pay as his capital fortune encreaſes, or diminiſhes, except his expences exceed it, which would be his own folly. The equity of this mode is therefore peculiarly ſuited to every inſtance, and every degree of fortune. It is moreover eaſy and certain, becauſe the ſelfiſh paſſions of mankind are engaged in its ſucceſs. The merchant who pays it in the firſt inſtance, will do ſo with pleaſure becauſe it is not his loſs; and the conſumer, who has previouſly calculated his ability to purchaſe, pays it inſenſibly, becauſe it is involved in the price of the article. All taxes ſhould, if poſſible, be laid in ſuch manner, and on ſuch articles, that they may be paid without regret. It is therefore better, to tax the enterprizing than the laborious, becauſe the former find endleſs reſources in their own ingenuity; but the price of mere labour can never exceed a certain limited ſum, a portion of which muſt ſupport life, and if the public takes more than the remainder, it drives the owner to deſpair. An impoſt is therefore an equitable mode of taxation, becauſe it falls, not upon the poor, but the rich and ingenious. — It is eaſy becauſe it is paid with good humour, and it is certain, becauſe it is the intereſt of individuals to pay it. It was principally for the laſt reaſon Congreſs were induced to recommend it. All other meaſures having failed, when the army were in diſtreſs, and every department at a ſtand. It was computed that the produce of five per cent. impoſt would be little more than half a million of dollars, which is leſs than a fourth part of the intereſt of the national debt, which muſt at all events be paid annually: yet ſome magnifying imaginations have foreſeen the entire independence, perpetuity, and tyranny of Congreſs, all built upon this ſingle *permanent* tax.

From the equitable nature of an impoſt, I am convinced alſo it is, relatively, a juſt and equal mode of raiſing a revenue. Thoſe States who import the greateſt quantity of foreign commodities, will pay in proportion; and they will be moſt able to pay, ſince it is the riches of individuals, that make the riches of the ſtate. It will induce them to encourage manufactures, and promote induſtry: Care ſhould only be taken that the rate of taxation is not exceſſive, ſo as to render the profits of commerce inadequate to the danger, riſque and labour attending it.

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FROM these considerations I am led to hope, the second earnest recommendation of Congress will meet a better and more honourable fate than the first. It will restore confidence in the suspected chastity of public faith, and give health and vigour to the debilitated constitution of national credit. The public creditors will see their claims are not unregarded, nor their services forgotten. ——The army will be pleased by provisions, which, tho' not sufficient to reward their merits, and do entire justice to their claims, will be equal to the humility of their desires. They will, tho' late, confess the justice of their country, while they taste the fruit, and recline at ease in the shade of independence,—a tree they have reared amidst so many dangers, and guarded with so much glory.——All the world will be compelled to acknowledge that honor and justice, tho' they have not always been the consequence, have ever been the objects of the national councils of America.

TULLIUS.

Charles-Town,
May 5th, 1783.

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